

IT IS ORDERED

Date Entered on Docket: December 20, 2022



The Honorable Robert H Jacobvitz
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

IN RE:

Gary A. Stevens and Beverly A. Stevens,

Debtors.

Case No. 22-10897-ja7

DEFAULT ORDER GRANTING RELIEF FROM STAY AND
ABANDONMENT OF PROPERTY LOCATED AT
401 South 5th Street, Raton, NM 87740

This matter came before the Court on the Motion for Relief from Stay and Abandonment of Property filed on 11/23/2022, Docket No. 10 (the “Motion”), by U.S. Bank National Association, not in its individual capacity but solely as trustee for the RMAC Trust, Series 2018 G-CTT (“Movant”). The Court, having reviewed the record and the Motion, and being otherwise sufficiently informed, FINDS:

(a) On 11/23/2022, Movant served the Motion and notice of the Motion (the “Notice”) on counsel of record for Debtors, Gary A. Stevens and Beverly A. Stevens, and the case trustee, Yvette J. Gonzales, (the “Trustee”) by use of the Court’s case management and electronic filing system for the transmission of notices, as authorized by

Fed.R.Civ.P. 5(b)(3) and NM LBR 9036-1, and on the Debtors and US Trustee by United States first class mail, in accordance with Bankruptcy Rules 7004 and 9014;

(b) The Motion relates to the following property legally described as:

LOTS 13 AND 14 AND THE NORTH 15 FEET OF LOT 15 IN BLOCK 22 OF
THE ORIGINAL TOWNSITE OF RATON, COLFAX COUNTY, NEW MEXICO.

and commonly known as: 401 South 5th Street, Raton, NM 87740;

(c) The Notice specified an objection deadline of 21 days from the date of service of the Notice, to which three days was added under Bankruptcy Rule 9006(f);

(d) The Notice was sufficient in form and content;

(e) The objection deadline expired on 12/17/2022;

(f) As of 12/19/2022, no objections to the Motion have been filed;

(g) The Motion is well taken and should be granted as provided herein; and

(h) By submitting this Order to the Court for entry, the undersigned counsel for Movant certifies under penalty of perjury that on 12/19/2022, McCarthy & Holthus, LLP searched the data banks of the Department of Defense Manpower Data Center (“DMDC”) and found that the DMDC does not possess any information indicating that the Debtors are currently on active military duty of the United States.

IT IS THEREFORE ORDERED:

1. Pursuant to 11 U.S.C. §362(d), Movant and any and all holders of liens against the Property, of any lien priority, are hereby granted relief from the automatic stay:

(a) To enforce their rights in the Property, including foreclosure of liens and a foreclosure sale, under the terms of any prepetition notes, mortgages, security

agreements, and/or other agreements to which Debtors is a party, to the extent permitted by applicable non-bankruptcy law, such as by commencing or proceeding with appropriate action against the Debtors or the Property, or both, in any court of competent jurisdiction; and

(b) To exercise any other right or remedy available to them under law or equity with respect to the Property.

2. The Property is hereby abandoned pursuant to 11 U.S.C. §554 and is no longer property of the estate. Creditor shall not be required to name the Trustee as a defendant in any action involving the Property or otherwise give the Trustee further notice.

3. The automatic stay is not modified to permit any act to collect any deficiency or other obligation as a personal liability of the Debtors, although the Debtors can be named as a defendant in litigation to obtain an *in rem* judgment if Debtors are granted a discharge, or to foreclose the Property in accordance with applicable non-bankruptcy law. Nothing contained herein shall preclude Creditor or any and all holders of liens against the Property, from proceeding against the Debtors personally, to collect amounts due, if Debtors' discharge is denied or if Debtors' bankruptcy is dismissed.

4. This Order shall continue in full force and effect if this case converted to a case under another chapter of the Bankruptcy Code.

5. This Order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

6. Movant is further granted relief from the stay to engage in loan modification discussions or negotiations or other settlement discussions with the Debtors and to enter into a loan modification with the Debtors.

###END OF ORDER###

RESPECTFULLY SUBMITTED BY:

/s/ Jason Bousliman
McCarthy & Holthus, LLP
Jason Bousliman, Esq.
Attorneys for Movant,
6501 Eagle Rock NE, Suite A-3
Albuquerque, NM 87113
(505) 219-4900
/s/ submitted electronically 12/19/2022
jbousliman@mccarthyholthus.com

COPIES TO:

DEBTORS

Gary A. Stevens
P.O. Box 2352
Moriarty, NM 87053

Beverly A. Stevens
P.O. Box 2352
Moriarty, NM 87053

DEBTOR(S) COUNSEL

Grieta Gilchrist
ggilchrist@maxwellgilchrist.com

CASE TRUSTEE

Yvette J. Gonzales
yjgllc@yahoo.com

US TRUSTEE

PO Box 608

Albuquerque, NM 87103-0608

SPECIAL NOTICE(S)

Ally Bank Corp, c/o AIS Portfolio Services, LLC

4515 N Santa Fe Ave. Dept. APS

Oklahoma City, OK 73118

SPECIAL NOTICE

Synchrony Bank c/o PRA Receivables Management, LLC

claims@recoverycorp.com

U.S. Bank Trust National Association, not in its individual capacity but solely as collateral trust trustee of FirstKey Master Funding 2021-A Collateral Trust

elizabeth.dranttel@RRAffirm.com